THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.14159 of 2004
and
C.C.No.1021 of 2005

Dated:27-06-2006

W.P.No.14159 of 2004:

Between:

Rajakajana Seva Sangham.

..... PETITIONER

AND

The Revenue Divisional Officer, Guntur,
and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.14159 of 2004

and

CONTEMPT CASE No.1021 of 2005

COMMON ORDER:

The writ petition and the contempt case are filed by Rajakajana Seva Sangham (Sangham, for brevity). In the writ petition the proceedings of the Revenue Divisional Officer, first respondent herein, dated 21-02-2004, is assailed as arbitrary and illegal. This Court, while admitting the writ petition on 11-08-2004, suspended said proceedings. In the contempt case, the petitioner-sangham alleges that even while the interim order of this Court is in force, the respondents have auctioned the right to catch fish in the tank and thereby disobeyed the orders of this Court. When the contempt case was called on 17-04-2006, it was brought to the notice of this Court that the second respondent has already filed W.V.M.P.No.177 of 2006 seeking vacation of the interim order; therefore, this Court directed both the matters to be listed together. Today, having regard to the fact that the arguments for the purpose of interlocutory applications as well as the main writ petition being the same, this Court heard the matter finally. This order shall dispose of both the cases.

The petitioner-sangham is allegedly an old one. It appears that the first respondent by proceedings dated 30-06-1976 allotted Ademma tank of Medikonduru Village within the jurisdiction of the second respondent in survey No.347 for washing clothes exclusively meant for members of petitioner-sangham. When there was interference allegedly by the Gram Panchayat in 2003, the petitioner-sangham filed a suit, being O.S.No.606 of 2003, on the file of the Court of the Principal Junior Civil Judge, Guntur, wherein the Gram Panchayat allegedly gave an undertaking not to interfere with the petitioner-sangham's activities and possession. It was also brought to the notice of the civil Court that the first respondent has cancelled the allotment of entire Ademma tank to the petitioner-sangham. Therefore, the petitioner-sangham filed the present writ petition assailing the proceedings of the first respondent dated 21-02-2004.

In the counter-affidavit filed by the second respondent along with the miscellaneous application for vacating the interim order, the allegation that the entire tank with water spread area of Acs.14.64 cents was earmarked for Rajakas is denied. It is stated that Ademma cheruvu was divided into two parts, one being an extent of Acs.2.11 cents of water spread area abutting R & B road was earmarked for Rajakas and another being an extent of Acs.9.00 on the southern side of the first part was earmarked for developing the protected water supply. It is also

averred that the District Collector sanctioned a sum of Rs.40,00,000/- for providing drinking water to SC/ST and BC colonies which were developed of late on the southern side of the tank, as the existing venkaiah cheruvu in the midst of the village intended for drinking water is polluted with drainage water. It is the further case of the second respondent that the residents of the locality made a representation dated 17-09-2003 requesting to cancel the earlier orders of allotting the entire survey No.347 for washing clothes and to utilize a portion of the same for drinking water supply scheme. Thereupon, the Mandal Revenue Officer, Medikondur, conducted an enquiry and submitted a report. The same was considered by the first respondent, who issued the impugned proceedings dated 21-02-2004 earmarking only Acs.2.11 cents to the petitioner-sangham. The
petitioner-sanghamhas not filed any reply-affidavit denying the allegations.

This Court has heard the learned counsel for the petitioner and the learned standing counsel for the second respondent.

A copy of the proceedings of the first respondent in D.Dis.8353/76/G dated 30-06-1976 is annexed to the writ petition. The same reads as under.

> In pursuance of the orders issued in G.O.Ms.No.892 L.A. Government dated 24-09-1954 the water spread area of the tank in S.No.347 of Medikondur Village of Sattanapalli Taluk is reserved for use by the washermen of the village for washing clothes. The vacant land of Acs.3-00 in the same S.No. is already ordered to be reserved for the purpose of Dhobi Khana.
>
> The Sarpanch, Grama Panchayat, Medikondur is requested to lease out the fishing rights in the tank to the washermen only without selling them in open auction as per the orders issued by the Government in the G.O. cited.

The above would clearly belie any submission that the entire extent of tank in survey No.347 is earmarked for dhobis for the purpose of Dhobikhana. According to the said proceedings only an extent of Acs.3.00 in survey No.347 is ordered to be reserved for the purpose of Dhobikhana and second respondent was requested to lease out the fishing rights in the tank to washermen only without selling them in open auction. It is, however, the case of the petitioner-sangham that the entire Ademma tank was allotted to it for the purpose of washing clothes. The same is not demonstrated or substantiated by producing any evidence. Therefore said submission cannot be accepted. Further, a reading of the impugned proceedings dated 21-02-2004 would show that so as to meet the drinking water needs of the villagers, the District Collector sanctioned a sum of Rs.40,00,000/- and directed project implementation as per the guidelines of the government of India. The Grampanchayat passed resolutions dated 30-06-2003 and 20-09-2003 requesting

implementation of protected water supply scheme. While referring to the proceedings dated 30-06-1976 referred to hereinabove, the first respondent, having noticed that Ademma tank is separated by a bund dividing the area into two parts, one part being Acs.2.11 cents and second part being Acs.9.00, by impugned proceedings dated 21-02-2004, in his discretion ordered to retain only an extent of Acs.2.11 cents i.e., first part in survey No.347 for washing clothes and to take up protected water supply scheme in second part admeasuring Acs.9.00. This does not suffer from any arbitrariness.

Be it noted that as observed by the Supreme Court in **Delhi Water Supply & Sewage Disposal Undertaking v. State of Haryana**[1], drinking is the most beneficial use of water and such beneficial use for drinking of water cannot be made subservient to any other use of water like irrigation as the use of water for drinking prevails over other needs. In this case, the conflict of rights is between the washermen for the purpose of washing clothes and the villagers for the purpose of drinking. The law gives precedence to the right of the latter and therefore, the petitioner-sangham cannot enforce any right much less a non-existing right to claim entire Ademma tank for the purpose of washing clothes. The fact that the impugned proceedings dated 21-02-2004 allows an extent of Acs.2.11 cents exclusively for washing purposes cannot be ignored while considering the question of rationality or arbitrariness.

The writ petition, which is devoid of merits, is accordingly dismissed. In view of the dismissal of the writ petition, the contempt case is also dismissed. No costs.

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V.V.S.RAO, J

27th June, 2006
Note:
L.R.copy to be marked.
B/o
ghn

*THE HONOURABLE SRI JUSTICE V.V.S.RAO

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..PETITIONER

Vs.

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..RESPONDENTS

! COUNSEL FOR PETITIONER: Sri P.R. Prasad.

^ COUNSEL FOR RESPONDENTS: Government Pleader for Revenue,
Sri Srinivas Dammalapati.

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>HEAD NOTE:

?CASES REFERRED:

1. A.I.R. 1996 SC 2992

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[1] A.I.R. 1996 SC 2992